

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

CHARLES SMITH (# 78308)

PLAINTIFF

v.

No. 4:08CV98-P-A

ROBERT SCOTT, ET AL,

DEFENDANTS

ORDER

This matter is before the court, *sua sponte*, for consideration of dismissal. The *pro se* prisoner plaintiff, an inmate at the South Mississippi Correctional Institution, has submitted a complaint which he wishes to file pursuant to 42 U.S.C. § 1983. The complaint alleges that he has been wrongfully found guilty of several prison rule violations.

The Prison Litigation Reform Act was enacted in April 1996. This Act provides, *inter alia*, at 28 U.S.C. § 1915(g)

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

On May 30, 2003, this court dismissed *Smith v. Bearry*, 4:03CV267-D-A, for failure to state a claim upon which relief could be granted. On September 9, 2003, *Smith v. Bearry*, 4:03CV353-P-A, was dismissed by this court as frivolous. This court, on September 24, 2002, dismissed *Smith v. Johnson*, 4:02CV75-M-B as frivolous. Therefore, the plaintiff has accumulated three strikes and has been an abuser of his *in forma pauperis* privileges.

It is therefore **ORDERED:**

1. That the instant motion to proceed *in forma pauperis* is hereby **DENIED**.
2. That the instant case is hereby **DISMISSED**
3. That under 28 U.S.C. § 1915(g), the plaintiff is barred from filing any future *pro se in forma pauperis* complaints without permission of one of the judges of the court.

This, the 5th day of December, 2008.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE